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Public Health Advisory And Appeal Board

Annual Report

1991-92

Alberta
HEALTH

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ALBERTA
HEALTH

Office of the Minister

April, 1993

The Honourable Dr. David J. Carter
Speaker of the Legislative
Assembly of Alberta
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Sir:

I have the honour to present the Annual Report of the Public Health Advisory and Appeal Board for the year August 1, 1991 to July 31, 1992.

Respectfully submitted,

Shirley McClellan
Minister

127 Legislature Building, Edmonton, Alberta, Canada T5K 2B6 Telephone 403/427-3665 Fax 403/429-5954

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Alberta
PUBLIC HEALTH ADVISORY
AND APPEAL BOARD

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In Replying Please Quote:

April, 1993

The Honourable Shirley McClellan
Minister of Health
127 Legislature Building
Edmonton, Alberta
T5K 2B6

Madam Minister:

I have the honour and privilege to present the Annual Report of the Public Health Advisory and Appeal Board for the year August 1, 1991 to July 31, 1992.

Respectfully submitted,

Frank H. Wilkinson
Chairman
Public Health Advisory
and Appeal Board

Public Health Advisory and Appeal Board

Chairman
Max McCann (St. Albert)

Appointed Board Chairman August, 1988.
Presently President of Idavon Management Consultants, Past President of the Tourism Industry Association of Alberta, a senator in the Canada Jaycees. Formerly in restaurant business for 18 years. St. Albert's citizen of the year in 1985.

Vice Chairman
Muriel Abdurahman (Fort Saskatchewan)

Appointed Vice-Chairman August, 1988.
Presently chairman of Alberta Hospital Edmonton, governor of the Hospital Foundation and member of Northern Alberta Advisory Board for TransAlta Utilities Corporation. Former Mayor and councillor of Fort Saskatchewan and Chairman of the Health Unit Association of Alberta

Members:

Jeannette Bourget (Bonnyville)

Past chairman of the Citizens Appeal and Advisory Board for the Municipal District of Bonnyville, pastoral care volunteer at the Bonnyville Health Centre. Former Bonnyville Catholic School Trustee, founder and past president of the Dove Centre, Bonnyville; a facility for the disabled.

Jean Fisher (Priddis)

Background in secretarial work and physical education. Extensive volunteer work in church and community organizations. Former library trustee. Member Calgary Women's Literary Club, Alumni representative Faculty of Humanities Council, The University of Calgary.

Hilton R. Pharis (Lundbreck)

Cattle Rancher. Elected to the Council of the Municipal District of Pincher Creek from 1961 to 1989. Chairman Oldman River Local Advisory Committee from 1985 to present. Former Chairman Oldman River Regional Planning Commission.

Frank H. Wilkinson (Sangudo)

Former business manager, Public Relations Representative and Extention Specialist with a large grain handling organization for 33 years. Former County Councillor, Board of Education Trustee and Chairman of a Health Unit. Presently involved in the agricultural sector as a small farmer.

Maureen Gagnon (Calgary)

Presently Secretary- Treasurer of Joli Fou Petroleums Ltd., a director of the Victorian Order of Nurses, Calgary and the board representative to Victorian Order of Nurses Alberta. A former instructor of nursing who has served in varied capacities in the community including the board of Alberta Synchronized Swimming Association, a division of the Canadian Amateur Swimming Association.

Sid R. Wallace (Calgary)

Former Royal Canadian Navy (Medical Service), later Canadian Forces Medical Service. Terminal appointment before taking early retirement as a Lieutenant Commander, was on the Staff of the Surgeon General, Directorate of Preventative Medicine. Following release from the Canadian Armed Forces was appointed to the Faculty of Medicine, The University of Calgary, as the Assistant to the Dean (Administration). Provincial Commissioner, St. John Ambulance. Immediate Past President, Alberta Council on Aging.

Dr. Jim Oshiro (Coaldale)

Retired physician. Past president of the Alberta Medical Association, and a former Chancellor of the University of Lethbridge. Former activities include service as medical officer of health of Barons-Eureka-Warner Health Unit and staff physician for United Church Hospitals on the coast of British Columbia. Councillor for Town of Coaldale and member of County School Board. Served in Canadian Army during Second World War.

Advisory and Appeal
Secretariat:

Jenny Malanchuk - Coordinator

Advisory and Appeal
Secretariat:

Margaret Anne Milne - Secretary

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History and Mandate

The Public Health Advisory and Appeal Board was formed on July 31, 1985, under Section 2 of the Public Health Act, Chapter P.27.1 Statutes of Alberta 1984. It replaced the Provincial Board of Health, which had its origins in Alberta's first Public Health Act (1909).

The purpose of the Provincial Board of Health, as stated in the 1908 Act, was 'to take cognizance of the interests of health and life, among the people of the province.' It had appeal and advisory functions and used its powers broadly for the protection and improvement of health and prevention of disease. The board was made up mostly of government officials from various departments concerned with health issues.

The mandate of the Public Health Advisory and Appeal Board is stated in Section 3 of the Public Health Act as follows:

a) to advise the Minister on matters pertaining to the public health;

b) to make investigations or inquiries into, collect information relating to or conduct research into any matter relating to the public health and make its report in the manner and at the time specified by the Minister;

c) on the request of the Lieutenant-Governor in Council, hold public hearings for the purpose of receiving submissions on matters pertaining to the public health and make its report to the Minister;

d) hear appeals pursuant to Section 4 of the Public Health Act.

To carry out this mandate the board comprises nine members with varied professional backgrounds who represent all parts of the province.

Advisory Activities

The Board drew concerns, respecting the Task Force reviewing rooming houses and apartments in downtown Edmonton area, to the Minister's attention pursuant to the Board's advisory function under section 4 of the Public Health Act.

Appeal Activities

The Public Health Act establishes the Public Health Advisory and Appeal Board as an appeal body to hear appeals from decisions of local boards as defined in Section 4 of the Public Health Act. The Public Health Advisory and Appeal Board may confirm, reverse, or vary the decisions of a local board, and is obliged to give written notice of its decisions to the appellant and the local board.

The Board is subject to the general rules of administrative law and natural justice as they apply to quasi-judicial tribunals. To that end, it has retained Donald R. Cranston, L.L.B., of the law firm Cruickshank Karvellas, to provide independent legal advice.

The following table summarizes all the appeals or applications that were received and/or heard by the Public Health Advisory and Appeal Board from August 1, 1991 to July 31, 1992.

Decision #	Subject	Parties Involved
02/91	Stay application in an appeal regarding waste management facility.	Wetoka Health Unit and Town of Ponoka.
06/91	Appeal of an Order to comply with requirements listed in operating PIN House #1 and PIN House #2.	Edmonton Board of Health and Edmonton People in Need Shelter Society.
07/91	Appeal of certain conditions in a waiver decision of the Edmonton Board of Health.	Edmonton Board of Health and WMI Waste Management of Canada Inc., Edmonton.
08/91	Appeal of a decision to refuse an application to develop and operate a dry waste site.	Sturgeon Health Unit and Edwin and Carol Holden.
09/91	Appeal of a decision to issue a development approval for a waste management facility near Big Valley.	Alberta East Central Health Unit and Town of Three Hills.
10/91	Appeal of a decision to issue a development approval for a waste management facility near Big Valley.	Alberta East Central Health Unit and Donald Saar and Otto Nicklom.
11/91	Appeal of a decision to issue a development approval for a waste management facility near Big Valley.	Alberta East Central Health Unit and Clara Mayhew.
12/91	Appeal of a decision to issue a development approval for a waste management facility near Big Valley.	Alberta East Central Health Unit and Skunk Hollow Ranch (George, Verna, Clinton and Glen Stankievech).
13/91	Appeal of a S.72 Order of an Executive Officer, and application for a stay of order pending hearing.	Edmonton Board of Health and Nilsson Livestock Ltd.

Decision #	Subject	Parties Involved
14/91	Appeal of a decision refusing a waiver by the City of Lethbridge Health Unit with respect to certain provisions of the Waste Management Regulation.	City of Lethbridge Health Unit and the City of Lethbridge.
15/91	Appeal of a decision to issue a development approval for a waste management facility near Big Valley.	Alberta East Central Health Unit and City of Drumheller.
16/91	Appeal of a decision to issue a development approval for a waste management facility near Big Valley.	Alberta East Central Health Unit and The Henry Kroeger Regional Water Services Commission.
17/91	Appeal of a S.72 Order of an Executive Officer that a nuisance exists.	Stony Plain-Lac Ste. Anne Health Unit and Mr. & Mrs. Werner Grundke.
18/91	Appeal of a S.72 Order of Executive Officer.	Mount View Health Unit and Eli J. Dobush.
19/91	Appeal of a decision by the Provincial Board of Health to issue a permit.	Sturgeon Health Unit and Jarret Berezanski.
20/91	Appeal of a decision of the local board of the Mount View Health Unit to grant a waiver.	Mount View Health Unit and Edith Collings.
21/91	Appeal of a decision of the local board of the Mount View Health Unit to grant a waiver.	Mount View Health Unit and Fred and Claudia Bosch.

Decision #	Subject	Parties Involved
22/91	Appeal of a decision of the local board of the Mount View Health Unit to grant a waiver.	Mount View Health Unit and Mr. R. Berrian, as agent for Hallmark Homes Ltd.
23/91	Appeal of a decision of the local board of the Mount View Health Unit to grant a waiver.	Mount View Health Unit and Eagle Butte Ranches Ltd.
24/91	Appeal of a decision of the local board of the Mount View Health Unit to grant a waiver.	Mount View Health Unit and The City of Calgary
25/91	Appeal of a decision of the local board of the Mount View Health Unit to grant a waiver.	Mount View Health Unit and Barbican Properties Inc.
1/92	Appeal of a S.72 Order of an Executive Officer.	Edmonton Board of Health and Charlie Chin and Gary Hui.
2/92	Appeal of a decision of the Alberta East Central Health Unit to grant a permit to CET Environmental Services Corp. to operate a class 2 industrial landfill.	Alberta East Central and Big Valley Red Deer River Protection Society.
3/92	Appeal of a decision of the local board of the Barons-Eureka-Warner Health Unit to not grant a waiver.	Barons-Eureka-Warner Health Unit and Clarence Hall
4/92	Appeal of a S.72 Order issued by an Executive Officer	Edmonton Board of Health and Olben Holdings Ltd.
5/92	Appeal of a S.72 Order issued by an Executive Officer.	Edmonton Board of Health and C. Favaro.

Decision #	Subject	Parties Involved
6/92	Appeal of a decision to issue a development approval for a waste management facility.	Stony Plain-Lac Ste. Anne Health Unit and Bovar Biomedical Services Inc. and Therm-Tec Destruction Services of Alberta Inc.
7/92	Appeal of a decision to refuse to grant a waiver for disposal of debris from a fire.	Mount View Health Unit and Village of Beiseker.
8/92	Appeal of a decision to issue an operating permit for a modified sanitary landfill.	South Peace Health Unit and Village of Hythe.
9/92	Appeal of a decision to grant a waiver.	Foothills Health Unit and Genstar Properties.
10/92	Appeal of a decision to grant a waiver.	Foothills Health Unit and City of Calgary.

02/91
Town of Ponoka

By Notice of Appeal the Town of Ponoka appealed an order issued by an Executive Officer of the Wetoka Health Unit pursuant to section 72 of the Public Health Act, concerning a waste management facility operated by the Town of Ponoka. At the request of both the Wetoka Health Unit and the Town of Ponoka a hearing was delayed.

Both the Town of Ponoka and the Wetoka Health Unit requested the Chairman of the Board issue a stay Order pursuant to Section 5 of the Public Health Act, with certain conditions.

The Chairman issued that stay Order on August 28, 1991.

06/91
Edmonton People In Need Shelter Society

Hearing held:
August 26,1991

By a Notice of Appeal dated July 17, 1991 Edmonton People In Need Shelter Society appealed the order of the Edmonton Board of Health to comply with requirements listed in operating PIN House #1 and PIN House #2.

The Board concluded that it is appropriate for the Edmonton Board of Health to require the windows be weather proofed in PIN House #1 and allowed the appeal in part by directing the appellant to weatherproof the windows by October 15, 1991.

With regard to PIN House #2, the Board allowed the appeal in part by requiring the appellant to comply with several items by November 15, 1991.

07/91
WMI Waste Management of Canada Inc., Edmonton

By notice of appeal WMI Waste Management of Canada, Inc., appealed the decision of the Edmonton Board of Health regarding certain conditions in a waiver decision concerning the Waste Management Regulations.

The appellant later withdrew the Notice of Appeal.

08/91
Edwin and Carol Holden

Hearing held
October 9,1991

By notice of appeal, Edwin and Carol Holden appealed the decision of the Sturgeon Health Unit to refuse to issue an approval to develop and permit to operate a dry waste site.

The Board referred the matter back to the Sturgeon Health Unit, pursuant to section 4 of the Public Health Act, to deal with the waiver application as soon as possible.

09/91
Town of Three Hills

Hearing held
October 24 & 25,1991

By notice of appeal, Town of Three Hills appealed the decision of the local board of the Alberta East Central Health Unit to develop a waste management facility.

It was the decision of the Board to uphold the decision of the local board of the Alberta East Central Health Unit to grant development approval subject to certain conditions.

10/91
Donald Saar and Otto Nicklom

Hearing held
October 24 & 25, 1991

By notice of appeal, Donald Saar and Otto Nicklom appealed the decision of the local board of the Alberta East Central Health Unit to develop a waste management facility.

It was the decision of the Board to uphold the decision of the local board of the Alberta East Central Health Unit to grant development approval subject to certain conditions.

11/91
Clara Mayhew

Hearing held
October 24 & 25, 1991

By notice of appeal, Clara Mayhew appealed the decision of the local board of the Alberta East Central Health Unit to develop a waste management facility.

It was the decision of the Board to uphold the decision of the local board of the Alberta East Central Health Unit to grant development approval subject to certain conditions.

12/91
Skunk Hollow Ranch (George, Verna, Clinton and Glen Stankievech)

Hearing held
October 24 & 25, 1991

By notice of appeal, Skunk Hollow Ranch (George, Verna, Clinton and Glen Stankievech) appealed the decision of the local board of the Alberta East Central Health Unit to develop a waste management facility.

It was the decision of the Board to uphold the decision of the local board of the Alberta East Central Health Unit to grant development approval subject to certain conditions.

13/91
Nilsson Livestock Ltd.

Stay hearing
Sept. 6, 1991

By notice of appeal, Nilsson Livestock Ltd. appealed an order issued by an Executive Officer of the Edmonton Board of Health and applied to the Chairman of the Board for a stay pursuant to section 5 of the Public Health Act.

The hearing of the appeal was set for September 14, 1991. The Chairman of the Board granted a stay of the Executive Officer's order dated August 30, 1991, pending the decision of this Board following the September 24, 1991 appeal hearing with certain conditions.

The appellant later withdrew the appeal.

14/91
City of Lethbridge

By notice of appeal, the City of Lethbridge appealed a decision by the City of Lethbridge Health Unit to refuse a waiver of certain provisions of the Waste Management Regulations.

The appeal was withdrawn.

15/91
City of Drumheller

Hearing held
October 24 & 25, 1991

By notice of appeal, City of Drumheller appealed the decision of the local board of the Alberta East Central Health Unit to develop a waste management facility.

It was the decision of the Board to uphold the decision of the local board of the Alberta East Central Health Unit to grant development approval subject to certain conditions.

16/91
The Henry Kroeger Regional Water Services Commission

Hearing held
October 24 & 25, 1991

By notice of appeal, The Henry Kroeger Regional Water Services Commission appealed the decision of the local board of the Alberta East Central Health Unit to develop a waste management facility.

It was the decision of the Board to uphold the decision of the local board of the Alberta East Central Health Unit to grant development approval subject to certain conditions.

17/91
Mr. & Mrs. Werner Grundke, Alberta Beach

By notice of appeal, Mr. & Mrs. Werner Grundke, Alberta Beach appealed an order of an Executive Officer of the Stony Plain-Lac Ste. Anne Health Unit to cease using, as part of the piggery operation, an old barn and pens, and clean both areas thoroughly.

Appeal was withdrawn.

18/91
Eli J. Dobush

By notice of appeal, Eli J. Dobush appealed an order of an Executive Officer of the Mount View Health Unit to cease depositing waste at an unlicensed site, and remove all deposited waste.

Appellant abandoned appeal and proceeded with a waiver application before the local board.

19/91
Jarrett Berezanski

By notice of appeal, Jarrett Berezanski appealed a decision of the former Provincial Board of Health to issue permit to the M.D. of Sturgeon for the operation of a regional landfill site in 1980.

The Board did not have jurisdiction to hear appeal in accordance with its mandate.

20/91
Edith Collings

Hearing held:
June 9 & 10, 1992

By notice of appeal, Edith Collings appealed the decision of the local board of the Mount View Health Unit to grant a waiver to Mr. P. Nolan of the distance requirement in the Provincial Board of Health Regulations Respecting the Keeping of Livestock and Poultry.

The Board upheld the decision of the local board of the Mount View Health Unit to grant a waiver with certain conditions.

21/91
Fred and Claudia Bosch

By notice of appeal, Fred and Claudia Bosch appealed a decision of the Mount View Health Unit to grant a waiver of sub-section 5(1) of the Waste Management Regulation to 496150 Alberta Limited.

Appellant withdrew the appeal.

22/91
Mr. R. Berrien as agent for Hallmark Homes Ltd.

Hearing held:
June 9 & 10, 1992

By notice of appeal, Mr. R. Berrien as agent for Hallmark Homes Ltd., appealed the decision of the local board of the Mount View Health Unit to grant a waiver to Mr. P. Nolan of the distance requirement in the Provincial Board of Health Regulations respecting the Keeping of Livestock and Poultry.

The Board upheld the decision of the local board of the Mount View Health Unit to grant a waiver with certain conditions.

23/91
Eagle Butte Ranche Ltd.

Hearing held:
June 9 & 10, 1992

By notice of appeal, Eagle Butte Ranches Ltd., appealed the decision of the local board of the Mount View Health Unit to grant a waiver to Mr. P. Nolan of the distance requirement in the Provincial Board of Health Regulations respecting the Keeping of Livestock and Poultry.

The Board upheld the decision of the local board of the Mount View Health Unit to grant a waiver with certain conditions.

24/91
The City of Calgary

Hearing held:
June 9 & 10, 1992

By notice of appeal, The City of Calgary appealed the decision of the local board of the Mount View Health Unit to grant a waiver to Mr. P. Nolan of the distance requirement in the Provincial Board of Health Regulations respecting the Keeping of Livestock and Poultry.

The Board upheld the decision of the local board of the Mount View Health Unit to grant a waiver with certain conditions.

25/91
Barbican Properties Inc.

Hearing held:
June 9 & 10, 1992

By notice of appeal, Barbican Properties Inc. appealed the decision of the local board of the Mount View Health Unit to grant a waiver to Mr. P. Nolan of the distance requirement in the Provincial Board of Health Regulations respecting the Keeping of Livestock and Poultry.

The Board upheld the decision of the local board of the Mount View Health Unit to grant a waiver with certain conditions.

1/92
Charlie Chin & Gary Hui

Hearing held:
January 29, 1992

By notice of appeal, Charlie Chin and Gary Hui appealed an order of an Executive Officer of the Edmonton Board of Health, declaring premises unfit for human habitation, and ordering the premises vacated.

Following the hearing on January 29, 1992 and before the Board issued its decision, the appeal was abandoned by Charlie Chin and Gary Hui.

No decision was issued by the Board.

2/92
Big Valley Red Deer River Protection Society

Hearing held:
March 30, 31 and
April 1, 1992

By notice of appeal, Big Valley Red Deer River Protection Society appealed the decision of the Alberta East Central Health Unit to issue a permit to operate a class 2 industrial landfill to CET Environmental Services Corp.

The Board upheld the decision of the local board of the Alberta East Central Health Unit to issue the operating permit with the 15 attached restrictions and conditions, with 2 further conditions.

3/92
Clarence Hall

Hearing held:
May 13, 1992

By notice of appeal, Clarence Hall appealed the decision of the local board of the Barons-Eureka-Warner Health Unit to deny his application for a waiver of the distance requirement in the Provincial Board of Health Regulations Respecting the Keeping of Livestock and Poultry.

The Board reversed the decision of the local board of the Barons-Eureka-Warner Health Unit and granted a waiver of the distance requirement to Clarence Hall subject to several conditions.

4/92
Olben Holdings Ltd.

Hearing held:
April 21, 1992

By notice of appeal, Olben Holdings Ltd. appealed an order issued by an executive officer of the Edmonton Board of Health respecting property at 10217-96 Street, Edmonton.

The Board varied the order issued by the executive officer of the Edmonton Board of Health.

5/92
C. Favero

By notice of appeal, C. Favero appealed an order issued by an executive officer of the Edmonton Board of Health declaring premises unfit for human habitation, and ordering the premises vacated.

The appeal was withdrawn.

6/92
Bovar Biomedical Services Inc.

Hearing held:
June 17, 1992

By notice of appeal, Bovar Biomedical Services Inc. appealed the decision of the Stony Plain-Lac Ste. Anne Health Unit to grant development approval to Therm-Tec Destruction Services of Alberta Inc., for a waste management facility.

It was the decision of this Board that Bovar is not a person directly affected by the decision of the local board, and therefore does not have status to appeal that decision.

7/92
Village of Beiseker

Hearing held:
July 7, 1992

By notice of appeal, Village of Beiseker appealed the decision of the local board of the Mount View Health Unit to decline to grant a waiver of s.32(1) of the Waste Management Regulations, for disposal of debris from Beiseker Hotel fire.

The Board was not satisfied that the application of section 32(1) of the Waste Management Regulations caused a hardship to the Village.

The appeal of the Village was dismissed.

Other Activities

Health related conferences and seminars held throughout the reporting year provided board members the opportunity to keep current of health perspectives and issues.

In 1991-92 the Public Health Advisory and Appeal Board was represented at the following:

- Health Unit Association of Alberta 1991 Annual General Meeting, "Our Future, Our Children", Ramada Renaissance Hotel, Edmonton, November 19, 20, 21, 1991.

- Catholic Health Association of Alberta, Forty-eighth Annual Convention, "The Challenge of Leadership in the 90's - Navigating Change", November 25, 1991, Westin Hotel, Edmonton.

- Alberta Healthcare Association "Healthcare: Cornucopia of Challenges", November 26 - 28, 1992, Edmonton Convention Centre, Edmonton.

- Health Unit Association of Alberta 1992 Issues Conference, April 7 - 10, 1992 - Jasper Park Lodge, Jasper.

- Alberta Public Health Association Annual Conference, Accountability 2000, "Doing The Right Things Right", May 26 - 29, 1992 - Vermilion Campus, Lakeland College, Vermilion.

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